IN THE HIGH COURT OF BOMBAY AT GOA
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CIVIL REVISION APPLICATION NO. 31 OF 2001

Bandekar Brothers Pvt. Ltd.,
a Private Limited Company,
incorporated under the
Companies Act, 1956, with
its registered office at
Suvarna Bandekar Bldg.,
Vasco da Gama, Goa. ... Petitioners.

Versus

1. V.N.S. Mining Company,
a partnership firm, repres-
ented by Shri Jyotendra
Vassudeva Sarmalkar
(expired) with office at
Rua Clovis da Costa,
Margao, Gosa
(since deceased represent-
ed by legal heirs),

1(a). Smt. Vrishali J.
Sarmalkar, widow of
late Shri Jyotendra
Vassudeva Sarmalkar, r/o
Sarmalkar Bldg., Near
Damodar High School,
Comba, Margao, Goa,

1(b). Smt. Vijayabai Vassudev
Sarmalkar, mother of late
Shri Jyotendra Vassudeva
Sarmalkar, r/o Sarmalkar Bldg.,
Near Damodar High School,
Comba, Margao, Goa, and

2. Shri Anant Kamalakant Shetye,
bachelor, about 29 years old,
partner of M/s. V.N.S. Mining
Company, 254, Rua Clovis da Costa,
Margao, Goa.

Shri J. E. Coelho Pereira, Senior Advocate with Shri V. Korgaonkar, advocate for the petitioners.

Smt. S. Naik with Kum. S. Poduval, advocate for respondent no.1(a) and 2.

Shri Sudin Usgaokar, advocate for respondent no.1(b).

CORAM : F. I. REBELLO, J.

DATE : 18th July, 2003.

ORAL JUDGMENT

By the present application what is impugned is the Order of 30th August, 2000. In the said application, the Executing Court has rejected the application by the decree-holders, the petitioners herein for sale of the property in which the judgment-debtors 1(a) and 1(b) have a share. A perusal of the judgment will indicate that the objection to the sale was on the ground that the inventory proceedings are pending. No other reason is disclosed from the said order.

2. There can be no reason as to why even if inventory proceedings are going on, when the shares of respondent nos.1(a) and 1(b) are admitted, their shares in the property cannot be sold for satisfying the dues of the decreeholder.

In the light of that the order of the trial Court really suffers from an error apparent on the face of the record.

The impugned Order dated 30th August, 2000, is set aside and the matter is remanded to the trial Court for hearing the parties afresh and thereafter to proceed according to law. Rule made absolute accordingly.

The Office is directed to send the R. & P. to the trial Court forthwith.

F. I. REBELLO, J.

mc.